

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

IN RE: RICHARD EARL SOUELS
Debtor

BCN#: 09-38062\DOT
Chapter: 13

Debtor(s)

GMAC MORTGAGE, LLC
or present noteholder,
Movant/Secured Creditor,

v.

RICHARD EARL SOUELS

Debtor(s)

and

CARL M. BATES

Trustee

Respondents

CONSENT ORDER MODIFYING AUTOMATIC STAY

This matter was before the court on June 30, 2010, on the motion of GMAC MORTGAGE, LLC, for relief from the automatic stay with respect to the real property located at 2806 4TH AVE, Richmond, VA 23222 and more particularly described as follows:

ALL THAT PARCEL OF LAND IN THE CITY OF RICHMOND, COMMONWEALTH OF VIRGINIA, AS MORE FULLY DESCRIBED IN DEED DOC # 03011665, IE# N000-0810-007, BEING KNOWN AND DESIGNATED AS: PLAT IS RECORDED IN MAP BOOK 363 AT PAGE 61 REFERENCE IS HEREBY MADE FOR A MORE PARTICULAR DESCRIPTION OF THE PROPERTY: SURVEY MADE BY ROBERT K. THOMAS AND ASSOCIATES, DATED 06/20/1997, ENTITLED: SURVEY 7 MAP OF LOTS 23, 24 & 26, BLOCK 6, PLAN OF THE PLATEAU IN RICHMOND, VA.

Upon consideration of which, it is **ORDERED:**

Edward S. Jones, VSB# 77729
Trenita Jackson-Stewart, VSB# 48412
Shapiro & Burson, LLP
236 Clearfield Avenue, Suite 215
Virginia Beach, VA 23462
757-687-8777 fax 847-493-7292
09-169446D

1. The debtor will resume making regular monthly installment payments in the amount of \$549.96 as they become due commencing on 07/01/10.

2. The debtor will cure the post-petition arrearage currently due to the movant through 06/01/10 in the total amount of \$3,999.76, which includes late charges, deferred late charges, filing fees and attorney's fees, by making the following payments:

- a. \$666.63 on or before 07/20/10
- b. \$666.63 on or before 08/20/10
- c. \$666.63 on or before 09/20/10
- d. \$666.63 on or before 10/20/10
- e. \$666.63 on or before 11/20/10
- f. \$666.63 on or before 12/20/10

3. In the event that any payment required by this order is not received by the movant within 15 days after it is due, the movant may mail a notice of default to the debtor by first class mail, postage prepaid, (and, if it desires, also by certified or registered mail) with a copy to debtor's counsel and the trustee by first class mail, postage prepaid, or by email at the same time as the notice of default is mailed to the debtor. The notice of default will state in simple and plain language:

- a. That the debtor is in default in making at least one payment required under this order;
- b. The date and amount of each payment missed and any late charge or other fees necessary to cure default;
- c. The action necessary to cure the default, including any address to which payments must be mailed;
- d. That the debtor or trustee must take one of the following actions within fourteen days after the date of the mailing of the notice of default:
 - i. Cure the default
 - ii. File an objection with the court stating that no default exists; or
 - iii. File an objection with the court stating any other reason why an order granting relief from the automatic stay should not be entered;
- e. That if the debtor or trustee does not take one of the actions set forth in paragraph 3(d), the movant may file a certificate that it has complied with the terms of this order and that the court may grant relief from the automatic stay without further notice to the debtor; and;

- f. That if the automatic stay is terminated, the collateral may be sold at foreclosure.

If the debtor or trustee does not take one of the actions set forth in paragraph 3(d), the movant may submit a certificate stating that it has complied with the terms of this order and that neither the debtor nor the trustee has taken one of the actions set forth in paragraph 3(d) and may submit together with the certificate a draft order terminating the automatic stay.

If the debtor or trustee files an objection, the movant must set the matter for hearing and give notice of the hearing to the debtor, debtor's counsel and the trustee. At the hearing, the court may terminate the stay or take other action appropriate to the circumstances.

4. The provisions of this order with respect to regular monthly installment payments expire one year after the date of the entry of this order. In the event of the default in payment of any regular monthly installment payment due more than one year after the date of the entry of this order, the movant must obtain relief by filing a new motion for relief from stay with appropriate notice and hearing.

5. Until an order is entered terminating the automatic stay, the movant may not refuse to accept or apply payments tendered by the debtor, even if such payments are late or in an improper amount; however, acceptance of non-conforming payments is without prejudice and shall not constitute a waiver of any default.

6. The automatic stay is modified to permit the note holder or servicing agent to send the debtor payment coupons, payment statements or invoices, notices of late payment, notices of payment changes, notices of servicing transfers, or any other notice, other than a notice of acceleration or demand for payment of the entire balance, normally sent to customers in the ordinary course of business.

7. Should the Debtor default pursuant to the terms herein contained, unless otherwise

ordered by this court, the Movant shall be entitled to reasonable attorneys fees in the amount of \$0.00 for issuance of a notice of default, and an additional \$0.00 for issuance of a certificate of default and preparation of an order terminating the automatic stay.

Executed at _____, Virginia, this ____ day of _____, 20

United
States Bankruptcy Judge

I ask for this:

/S/ TRENITA JACKSON STEWART

TRENITA JACKSON STEWART, Esquire, Counsel for Movant

Seen:

/S/ RUDOLPH C. MCCOLLUM, JR

RUDOLPH C. MCCOLLUM, JR, Counsel for Debtor(s)

I certify that I have served the proposed Order upon all necessary parties to the action by first class mail, postage prepaid, on the __18TH__ day of __JUNE__, 2010.

/S/ TRENITA JACKSON STEWART

TRENITA JACKSON STEWART, Esquire, Counsel for Movant

Copies are to be sent to:

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2806 4TH AVE
Richmond, VA 23222

CARL M. BATES
P.O. BOX 1819
RICHMOND, VA 23218

RUDOLPH C. MCCOLLUM, JR.
P.O. BOX 4595
RICHMOND, VA 23220

CERTIFICATION

The undersigned certifies that the foregoing Consent Order Modifying Automatic Stay is identical to the form order required by Administrative Order 10-2 and that no modification, addition, or deletion has been made.

/S/ TRENITA JACKSON STEWART

Attorney for Movant